

KATHLEEN A. LEAVITT
CHAPTER 13 BANKRUPTCY TRUSTEE
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Electronically Filed on 9/04/09

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA

In re:)	BK-S 07-18267 LBR
)	Chapter 13
THOMAS FULTON,)	
)	Date: N/A
Debtor(s).)	Time: N/A

**TRUSTEE'S EX PARTE MOTION FOR ORDER VACATING ORDER OF DISMISSAL
AND REOPEN CHAPTER 13 PROCEEDING**

COMES NOW the Chapter 13 Bankruptcy Trustee, Kathleen A. Leavitt, by and through her counsel of record, Sarah E. Smith, Esq., and files herewith her ***Ex Parte Motion for Order Vacating Order of Dismissal and Reopen Chapter 13 Proceeding*** as follows:

The Debtor filed for Chapter 13 bankruptcy relief on December 10, 2007. The case was dismissed by Order entered September 2, 2009 for failure to make Plan payments. However, the case was dismissed in error as Debtor's counsel had advised the Trustee's staff that the Debtor was going to convert his case to a case under Chapter 7.

Although the Order dismissing the case was noticed to all the parties of this bankruptcy, and in order that this matter may be resolved as expeditiously as possible, the Trustee requests that she be allowed to file this Motion *ex parte* to allow the case to remain in Chapter 13 in order that the Debtor may convert to Chapter 7 rather than file a new case. The Order vacating the dismissal Order, after execution by this Honorable Court, shall be noticed to all parties of this bankruptcy case.

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DATED this 4th day of September, 2009.

/s/ Sarah E. Smith
SARAH E. SMITH, ESQ.
Nevada Bar No. 010762
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Attorney for the Trustee,
KATHLEEN A. LEAVITT